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U.S. Department of Homeland Security
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Washington, DC 20529



U.S. Citizenship
and Immigration
Services

GB

FILE:

Office: PHILADELPHIA

Date: JUL 14 2004

IN RE:

Obligor:
Bonded Alien

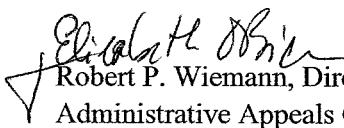
IMMIGRATION BOND:

Bond Conditioned for Voluntary Departure under § 240B of the Immigration
and Nationality Act, 8 U.S.C. § 1229c

ON BEHALF OF OBLIGOR:

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.


Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The voluntary departure bond in this matter was declared breached by the Field Office Director, Detention and Removal, Philadelphia, Pennsylvania, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The record indicates that on August 23, 2000, the obligor posted a \$500.00 bond conditioned for his voluntary departure. An order of the immigration judge (IJ) dated August 21, 2000 was issued granting the alien voluntary departure in lieu of removal on or before October 21, 2000. The bonded alien appealed the IJ's decision to the Board of Immigration Appeals (BIA). On March 21, 2003, the BIA affirmed, without opinion, the IJ's decision and granted the alien voluntary departure within 30 days from the date of the order. The alien subsequently filed a motion to reconsider before the BIA, which was denied on July 7, 2003. On February 6, 2004, the field office director concluded the bond had been breached. On February 6, 2004, the alien filed a motion to reopen before the BIA, which was denied on April 12, 2004.

On appeal, counsel argues that the BIA failed to take account of the alien's visa petition, which was already adjudicated in his favor.

The regulation at 8 C.F.R. § 1003.2(f) states in part that a filing of a motion to reopen or a motion to reconsider shall not stay the execution of any decision made in the case. Execution of such decision shall proceed unless a stay of execution is specifically granted by the Board, the Immigration Judge, or an authorized ICE officer. The record does not reflect that a stay of deportation was granted.

The regulation at 8 C.F.R. § 1240.26(c)(3) provides that in order for the voluntary departure bond to be cancelled, the alien must provide proof of departure to the district director.

No satisfactory evidence has been introduced into the record to establish the alien made a timely departure. The service of a notice to surrender or the presence of a certified mail receipt is not required in voluntary departure bond proceedings.

Voluntary departure bonds are exacted to ensure that aliens will depart when required in lieu of removal. Such bonds are necessary in order for ICE to function in an orderly manner. After a careful review of the record, it is concluded that the alien failed to depart by the stipulated time, the conditions of the bond have been substantially violated, and the collateral has been forfeited. The decision of the field office director will not be disturbed.

ORDER: The appeal is dismissed.